

Message

From: Welles, Laura [Welles.Laura@epa.gov]
Sent: 10/19/2016 6:39:09 PM
To: Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]
Subject: RE: Whole Foods - draft CAFO

Ok – here's my brief itemized list. I'll come to your office a few minutes before 3, but let me know if you have any questions before then...

Ex. 5 AC/AWP/DP

SEPs

Ex. 5 AC/AWP/DP

From: Fogarty, Johnpc
Sent: Wednesday, October 19, 2016 1:09 PM
To: Welles, Laura <Welles.Laura@epa.gov>
Subject: RE: Whole Foods - draft CAFO

Will look at this right now. In the meantime, can you itemize what sections you think we should ask them for specific line comments on?

From: Welles, Laura
Sent: Wednesday, October 19, 2016 12:52 PM
To: Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>
Subject: RE: Whole Foods - draft CAFO

Quick thoughts about this draft:

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

I think that's it for now.

If we can get this to WF before the call, I'd like to focus on confirming SQGs/CESQG and paragraphs 59 to 62. I'd also like to start the discussion on SEPs.

Also – if we send, I plan to send in pdf not word.

Let me know if you have any questions, etc.

Laura

From: Fogarty, Johnpc
Sent: Wednesday, October 19, 2016 10:38 AM
To: Welles, Laura <Welles.Laura@epa.gov>
Subject: RE: Whole Foods - draft CAFO

I will watch for it and see what I can do. Since I saw it once already I'm sure it'll be ok. We should identify what sections we want them to comment specifically on.

From: Welles, Laura
Sent: Wednesday, October 19, 2016 10:14 AM
To: Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>
Subject: RE: Whole Foods - draft CAFO

I'm still working on the body of the CAFO – no appendices yet... I'll send you what I have around 12:30/1:00 – I'm not sure that's enough time for you to review before sending along to WF.

From: Fogarty, Johnpc
Sent: Tuesday, October 18, 2016 3:01 PM
To: Welles, Laura <Welles.Laura@epa.gov>
Subject: RE: Whole Foods - draft CAFO

Agree.

From: Welles, Laura
Sent: Tuesday, October 18, 2016 2:04 PM
To: Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>
Subject: RE: Whole Foods - draft CAFO

Ex. 5 AC/AWP/DP

Having said the above, I'm open in this case to asking WF what they think are reasonable timeframes for the action items nationwide – based on where they are now in the process. For reference, the R6 Texas CAFO provides WF 180 days from effective date (9/19/16) to certify assessed solid waste streams at each facility (in R6) to determine accurate codes, as well as develop and implement SOPs for HW management. The electronic system was 18 months, but there's the off ramp clause.

Let's leave it that I'll see how far I can get and I'll give you an update tomorrow morning. All in all, I'd rather get it right...

From: Fogarty, Johnpc
Sent: Tuesday, October 18, 2016 1:31 PM
To: Welles, Laura <Welles.Laura@epa.gov>
Subject: RE: Whole Foods - draft CAFO

See below -

From: Welles, Laura
Sent: Tuesday, October 18, 2016 1:15 PM
To: Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>
Subject: RE: Whole Foods - draft CAFO

Thanks for the background.

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Thoughts, etc. I'll also check in with Diana and Andy so that the CAFO is consistent with other RCRA settlements.

I took a quick look at the materials WF set up on the Box cloud. I found them helpful, especially more insight to the types of consumer products and the

Ex. 4 CBI

Ex. 4 CBI

Ex. 4 CBI

With regard to the draft CAFO, I'll look at the IR and try to tailor it more to WF's program. I also want to start to discuss timelines with you for IR (e.g., by X date, submit current list of consumer products each Respondent currently manages, etc.). I still think it makes sense to have much of the IR in appendices, especially if WF is going to designate most of the materials as CBI. Agree. Even for now, we can just put X's in for this draft.

Is the plan to try and get this draft CAFO to WF a few hours before the meeting tomorrow? It might be tight, but probably a big step in moving this along...

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

From: Fogarty, Johnpc
Sent: Tuesday, October 18, 2016 9:47 AM
To: Welles, Laura <Welles.Laura@epa.gov>
Subject: RE: Whole Foods - draft CAFO

Sure thing. There are probably some other folks in WCED who are more facile on part 22 than I am (I tend to work primarily on civil judicial), but my go-to for admin lit questions is Gary Jonesi). For the two items below, it's sort of a belt-and-suspenders thing. 22.8 prohibits ex parte communications once a complaint is filed. Here, since we're jumping immediately to settlement, that prohibition arguably doesn't apply, but just to remove any question or issue we typically provide that for a waiver of the prohibition.

For the PRA, that law limits what info we can require of a private party to be submitted to us, without OMB approval. There's a law enforcement exemption for that, but just remove any doubt/preclude the defendant from raising it as a defense if we're investigating noncompliance with the CAFO, we provide that the PRA is likewise waived (I put it in all my CDs).

From: Welles, Laura
Sent: Monday, October 17, 2016 6:32 PM
To: Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>
Subject: RE: Whole Foods - draft CAFO

Got it -- thanks. I found them helpful and they made me think of other things I overlooked or wanted to describe more, etc.

At some point I have some general questions to ask you re: some of the waivers I'm not familiar with, but see in many of EPA's CAFOs, including Walmart (e.g., 40 CFR § 22.8, paperwork reduction act).

From: Fogarty, Johnpc
Sent: Monday, October 17, 2016 6:10 PM
To: Welles, Laura <Welles.Laura@epa.gov>
Subject: Re: Whole Foods - draft CAFO

Also, just to be clear, my edits, etc are all really just suggestions - if you think they're not apt, have a different view, etc, pls feel free to push back.

Sent from my iPhone

On Oct 17, 2016, at 5:49 PM, Welles, Laura <Welles.Laura@epa.gov> wrote:

I'm in the process of incorporating your edits, etc. into the draft CAFO.

With regard to your questions/comments in the draft CAFO about all Whole Foods Markets being CESQGs, I think you're right -- WF indicated to us during the first meeting that their stores = CESQGs. I want to confirm with them again. I did an ECHO search -- of the WF stores listed (only about one or two dozen were listed), most were CESQS (or there was no RCRA info) except this Chicago store was SQG -- <https://echo.epa.gov/detailed-facility-report?fid=110005966598>. I don't fully trust the data in ECHO, but thought it was worth following up with WF.

Laura

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